



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

ALLIED MEDICAL CENTER

Carrier's Austin Representative

Box Number 19

MFDR Date Received

July 28, 2011

Respondent Name

ZURICH AMERICAN INSURANCE CO

MFDR Tracking Number

M4-11-4376-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Service being denied for Lack of Pre-Authorization. Upon further review we are attaching the pre authorization. Please note the start and end dates, our services fall well within these dates."

Amount in Dispute: \$840.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The request for preauthorization came in from Dr. Syed, who is also listed as the referring provider on the medical bills underlying the medical dispute. As of November 1, 2010, Dr. Syed was 'out-of-network,' and no longer able to service as a treating doctor and/or direct or provide case for the claimant. The services involved in the present dispute were all provided after Dr. Syed was 'out-of-network.' Consequently, no reimbursement is due."

Response Submitted by: Flahive, Ogden & Latson

DISPUTED SERVICES SUMMARY

Dates of Service	Disputed Services	Amount In Dispute	Amount Ordered
November 8, 2010 through November 24, 2010	97110, 97140 and 97112	\$840.00	\$0.00

BACKGROUND

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.

FINDINGS AND DECISION

Issue

1. Did the requestor receive a referral approval from the certified network to treat the injured employee?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

Findings

The requestor filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation is to apply Texas Labor Code statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305. In particular, TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation." The requestor therefore has the burden to prove that the condition(s) outlined in the Texas Insurance Code §1305.006 were met in order to be eligible for dispute resolution. The following are the Division's findings.

1. Texas Insurance Code Section 1305.006 requires, in pertinent part, that "(3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103."

Texas Insurance Code Section 1305.103 requires that "(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network. The network shall approve a referral to an out-of-network provider not later than the seventh day after the date on which the referral is requested, or sooner if circumstances and the condition of the employee require expedited approval. If the network denies the referral request, the employee may appeal the decision through the network's complaint process under Subchapter I."

The requestor has the burden to prove that it obtained the appropriate network approved referral for the out-of-network care it provided. The requestor, in its position summary noted on the Table of Disputed Services states, "referral not necessary." Authorization numbered 101028-196478 states "Authorized PT lumbar..." Although a letter dated, October 28, 2010 supports that the provider Shahid Syed, MD received preauthorization from the certified network to treat the injured employee, no documentation was found to support that the requestor obtained a referral from the treating doctor that has been approved by the network, separate from the preauthorization obtained from the certified network. The Division concludes that the requestor did not receive a referral approval from the Network to treat the injured employee, thereby failing to meet the requirements of Texas Insurance Code Section 1305.103.

2. The requestor failed to prove in this case that the requirements of Texas Insurance Code Section 1305.006(3) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

DECISION

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

Authorized Signature

Signature

Medical Fee Dispute Resolution Manager

October 30, 2014

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.